

STATE OF CALIFORNIA



MEMO

**To : POLICY AND PROCEDURE COMMITTEE
RAHIM HASSANALLY, CHAIR
KATHRYN DOI, MEMBER**

Date: June 27, 2017

**From : WILLIAM G. BRENNAN
ROBIN PARKER**

**Subject: DISCUSSION AND CONSIDERATION OF AN EXTENSION OF TIME FOR
ADMINISTRATIVE LAW JUDGE MERILYN WONG TO PRESIDE OVER
ALL MANDATORY SETTLEMENT CONFERENCES**

BACKGROUND

At the June 28, 2016, General Meeting, Marilyn Wong was designated the Mandatory Settlement Conference ("MSC") Administrative Law Judge ("ALJ") for an interim period of six months while the Board attempted to hire additional ALJs. A six-month extension was granted at the January 18, 2017, General Meeting, to allow the staff time to hire and train new ALJs. At this meeting, the members also approved the hiring of Evelyn Matteucci and Dwight Nelsen; however, this process has taken considerably longer than anticipated.

ALJ Wong has been extremely effective in settling the protests she presides over because she sets follow-up telephonic settlement conferences, subsequent in-person settlement conferences, and has the legal staff follow-up with counsel. This has resulted in the following matters being resolved without a lengthy and costly merits hearing:

1. PR-2473-16, *Roseville Motor Cars, LLC, dba Roseville Mitsubishi v. Mitsubishi Motors North America, Inc.*, was tentatively set for a 5-day merits hearing on March 30, 2017 but was dismissed on October 3, 2016, after an August 24, 2016, MSC with ALJ Wong.
2. PR-2475-16, *Sunroad KMI Auto, Inc. dba Kearny Mesa Infiniti, a California corporation v. Nissan North America, Inc., a California corporation*, was tentatively set for an 8-day merits hearing on August 22, 2017, but was dismissed on April 11, 2017, after the parties submitted and the Board approved a Proposed Stipulated Decision and Order. In-person settlement conferences were held on January 3, and February 7, 2017; and telephonic settlement conferences were held on January 17 and 26, 2017.

The following cases are on track for settlement:

1. PR-2403-14, *Downtown Auto Center dba Downtown Subaru v. Subaru of America, Inc.*, was tentatively set for an 8-day merits hearing on October 16, 2017. An in-person settlement conference was held on October 21, 2016, with telephonic follow-up conferences on November 30, 2016, March 6 and April 5, 2017.
2. PR-2479-16, *Pro Italia Motors, Inc. v. Triumph Motorcycles America, Ltd.*, was tentatively set for a 10-day merits hearing on August 28, 2017. An in-person settlement conference was held on December 15, 2016, with telephonic follow-up conferences on January 27, February 9 and 23, and March 13 and 29, 2017.
3. PR-2383-16, *Folsom Chevrolet, Inc., dba Folsom Chevrolet v. General Motors, LLC*, was tentatively set for a 10-day merits hearing on October 2, 2017. An in-person settlement conference was held February 28, 2017, with telephonic follow-up conferences on March 13 and 29, 2017.
4. PR-2474-16, *Rainbow Sports, Inc.*, an Oklahoma corporation, dba Ken & Joe's KTM v. *KTM North America, Inc., an Ohio Corporation*, was set for a 3-day merits hearing on February 5, 2018. An in-person settlement conference was held on March 31, 2017, with follow-up telephonic conferences on March 23, May 9 and 23, and June 26, 2017.

Case management has been quite busy with 35 new protests filed this year. A 2-day merits hearing was held in *California New Car Dealers Association v. Jaguar Land Rover North America, LLC* (Protest No. PR-2463-16). A 14-day merits hearing was canceled in *Ball Automotive Group dba Ball Kia v. Kia Motors America, Inc.* due to a last minute settlement on the eve of trial.

The chart below indicates the upcoming hearings that have tentatively been scheduled for 2017.

Case	Hearing	Proposed Meeting
Pro Italia Motors, Inc. v. TRIUMPH Motorcycles America, Ltd. (Protest No. PR-2479-16)	August 28, 2017 (10 days) (The parties are working settlement)	January 2018
Folsom Chevrolet , Inc., dba Folsom Chevrolet v. General Motors, LLC (Protest No. PR-2483-16)	October 2, 2017 (10 days) (The parties are working settlement)	March 2018
Downtown Auto Center dba Downtown Subaru v. Subaru of America, Inc. (Protest No. PR-2403-14)	October 16, 2017 (8 days) (The parties are working settlement)	March 2018
Sunnyvale Automotive, Inc., dba Sunnyvale Ford Lincoln v. Ford Motor Company (Protest No. PR-2483-16)	October 23, 2017 (15 days)	May 2018

West Covina Nissan, LLC v. Nissan North America, Inc. (Protest No. PR-2478-16)	December 4, 2017 (5 days)	May 2018
Rainbow Sports, Inc., an Oklahoma corporation, dba Ken & Joe's KTM v. KTM North America, Inc., an Ohio corporation (Protest No. PR-2474-16)	February 5, 2018 (3 days)	July 2018
Shingle Springs Imports, Inc. dba Shingle Springs Honda v. American Honda Motor Co., Inc. (Protest No. PR-2518-17)	March 26, 2018 (15 days)	September 2018

RECOMMENDATION

Given the number of merits hearings tentatively schedule for 2017, and the lengthy training and mentoring provided to new ALJs, it is recommended that ALJ Wong continue to preside over all Mandatory Settlement Conferences for an additional six-month period. An update concerning this interim assignment will be agendized for the January 2018, General Meeting.

This matter is being agendized for consideration at the July 19, 2017, General meeting. If you have any questions or would like additional information, please do not hesitate to contact me at (916) 324-6197 or Robin at (916) 323-1536.

cc: Ramon Alvarez C., President